ECOLOGY LAW QUARTERLY

Volume XV

INDEX

School of Law, Boalt Hall
University of California
Berkeley, California

Copyright © 1988 by ECOLOGY LAW QUARTERLY

AUTHOR INDEX

ALADJEM, DAVID R. E.—Public Use and Treatment as an Equal: An Essay on *Poletown Neighborhood Council v. City of Detroit* and *Hawaii Housing Authority v. Midkiff* 671

BLEICH, JEFFREY L.—Chrome on the Range: Off-Road Vehicles on Public Lands .. 159

COWART, RICHARD H. & SALLY K. FAIRFAX—Public Lands Federalism: Judicial Theory and Administrative Reality 375

DUFORT, GISELE C.—All the King's Forces or the Discretionary Function Doctrine in the Nuclear Age: *Allen v. United States* 477

FELDMAN, MURRAY D.—*National Wildlife Federation v. FERC* and *Washington State Department of Fisheries v. FERC:* Federal Energy Regulatory Commission Ignores Ninth Circuit Rebuke on Hydropower Permitting 319

FINDLEY, ROGER W.—Pollution Control in Brazil 1

HANDL, GUNTHER—Transboundary Nuclear Accidents: The Post-Chernobyl Multilateral Legislative Agenda 203

KOVACS, WILLIAM L.—The Coming Era of Conservation and Industrial Utilization of Recyclable Materials 537

PACHECO, THOMAS H.—How Big is Big? The Scope of Water Rights Suits Under the McCarran Amendment 627

PEDERSEN, WILLIAM F., JR.—Turning the Tide on Water Quality 69

ROHLF, DANIEL & DOUGLAS L. HONNOLD—Managing the Balances of Nature: The Legal Framework of Wilderness Management 249

ROSENBERG, MARGOT A.—Commercial Rent Regulation: Preserving the Diversity of Neighborhood Commercial Districts 281

STARRS, THOMAS A.—Legislative Incentives and Energy Technologies: Government's Role in the Development of the California Wind Energy Industry 103

TITLE INDEX

ALL THE KING'S FORCES OR THE DISCRETIONARY FUNCTION DOCTRINE IN THE NUCLEAR AGE: *ALLEN V. UNITED STATES—Gisele C. DuFort* 477

CHROME ON THE RANGE: OFF-ROAD VEHICLES ON PUBLIC LANDS—*Jeffrey L. Bleich* 159

COMMERCIAL RENT REGULATION: PRESERVING THE DIVERSITY OF NEIGHBORHOOD COMMERCIAL DISTRICTS—*Margot A. Rosenberg* 281

HOW BIG IS BIG? THE SCOPE OF WATER RIGHTS SUITS UNDER THE MCCARRAN AMENDMENT—*Thomas H. Pacheco* 627

LEGISLATIVE INCENTIVES AND ENERGY TECHNOLOGIES: GOVERNMENT'S ROLE IN THE DEVELOPMENT OF THE CALIFORNIA WIND ENERGY INDUSTRY—*Thomas A. Starrs* 103

MANAGING THE BALANCES OF NATURE: THE LEGAL FRAMEWORK OF WILDERNESS MANAGEMENT—*Daniel Rohlf & Douglas L. Honnold* 249

NATIONAL WILDLIFE FEDERATION V. FERC AND *WASHINGTON STATE DEPARTMENT OF FISHERIES V. FERC:* FEDERAL ENERGY REGULATORY COMMISSION IGNORES NINTH CIRCUIT REBUKE ON HYDROPOWER PERMITTING—*Murray D. Feldman* 319

POLLUTION CONTROL IN BRAZIL—*Roger W. Findley* 1

PUBLIC LANDS FEDERALISM: JUDICIAL THEORY AND ADMINISTRATIVE REALITY—*Richard H. Cowart & Sally K. Fairfax* 375

PUBLIC USE AND TREATMENT AS AN EQUAL: AN ESSAY ON *POLETOWN NEIGHBORHOOD COUNCIL V. CITY OF DETROIT* AND *HAWAII HOUSING AUTHORITY V. MIDKIFF—David R. E. Aladjem* 671

THE COMING ERA OF CONSERVATION AND INDUSTRIAL UTILIZATION OF RECYCLABLE MATERIALS—*William L. Kovacs* 537
TRANSBOUNDARY NUCLEAR ACCIDENTS: THE POST-CHERNOBYL MULTILATERAL LEGISLATIVE AGENDA—*Gunther Handl* 203
TURNING THE TIDE ON WATER QUALITY—*William F. Pedersen, Jr.* 69

BOOK REVIEW INDEX

LESHY, JOHN D.—The Mining Law—A Study in Perpetual Motion (*Roger W. Jeppson*) 189
MENDELOFF, JOHN M.—The Dilemma of Toxic Substance Regulation: How Overregulation Causes Underregulation at OSHA (*John P. Dwyer*) 719
MOKHIBER, RUSSELL—Corporate Crime and Violence (*William J. Maakestad*) 517
O'TOOLE, RANDALL—Reforming the Forest Service (*Richard M. Alston*) 503
PLOTKIN, SIDNEY—Keep Out: The Struggle for Land Use Control (*George A. Kresovich & Jerome L. Hillis*) 361

TABLE OF SUBJECTS

A

ADMINISTRATIVE AGENCIES

See also *Torts*
Federal Energy Regulatory Commission (FERC)
Comprehensive plan requirement of hydropower permit procedure 336-37
Consideration of cumulative impacts of hydropower projects 324-26, 331-33, 338-39
Efforts to reform hydropower permit decisionmaking 321-23, 336-42
Generally 319-21, 326-60
Hydropower permitting and licensing process 326-28
Legislative reforms 357-60
Resistance to reforms 342-51
Salmon River Basin permit proceedings 328-30
Skykomish River permit proceedings 343-51
Snohomish River Basin permit proceedings 330-31
Standard of review of hydropower permits 340-42

ADMINISTRATIVE LAW

See *Administrative Agencies, Energy Resources*

AESTHETICS

See also *Public Lands*
Cape Cod National Seashore
Cost-benefit analysis 180-87
Generally 170-77
Cost of off-road vehicle use 162-63
Off-Road Vehicle Use on Public Lands
Management 160-63, 171-77
Effect of 159-60

AIR POLLUTION

Brazil
Administration and enforcement of regulatory programs 26-28
Federal and state administrative regulation 6-22
Judicial remedies 38-52
São Paulo 35-37

C

CITY PLANNING

See also *Constitutional Law*
Commercial Rent Regulation
Alternatives 315-17
Effects of Deregulation 311-13
Elmwood District 288-89, 291, 314
Eviction controls 293-94
Gentrification 281-82, 284-85, 288
History 287-91
Rent regulations 291-93
Statewide legislation prohibiting . 305-10
Telegraph Avenue .. 285-87, 289-92, 314

CONSERVATION

See also *Public Lands, Motor Vehicles, Forest Preservation, Recycling*
Dep't of Energy Programs 553-57
Public Lands 159

CONSTITUTIONAL LAW

See also *Takings, Public Lands, Water Rights*
Brazil
Preemption of federal environmental law 14
Commerce Clause
Utility regulation 129-34
Commercial Rent Regulation
Contract clause claim 301-05
Takings claim 297-300
Legal Basis for Packaging Bans ... 583-88

D

DAMAGES

See *Torts*

E

ECONOMICS

See also *Recycling*
Energy Resources 103

ENERGY CONSERVATION

See also *Energy Resources, Recycling*
Energy Resources 103
Political Views of the 1980's 152-56

Weaning Ourselves from Fossil Fuel 151-52

ENERGY MANAGEMENT

Role of Tax Incentives 136-45

ENERGY PROGRAMS

Response to 1973 Energy Crisis ... 401-04

ENERGY RESOURCES

See also *Administrative Agencies, Economics, Energy Conservation, Nuclear Energy*
Alternative Energy Technologies
Development of wind energy 105-11
Domestic Supplies & Production .. 150-51
Energy Legislation of the 1980's ... 117-19
Federal Wind Energy Program 113
Hydropower
Environmental impacts 321-26
Renewed interest 319-20, 353-54
Legislative Encouragement of New Technology
Federal research & development . 113-14
Generally 111
Private sector 114-20
National Energy Act of 1978 ..... 104, 112, 114
Renewable Sources 103
Solar Energy
Tax incentives 119
Tax Incentives & Credits
Costs 145
Wind Energy
Advantages 146-49
Cost analysis 109-10
Decline 110-11
Effect of Tax Reform Act of 1986 119
Effectiveness of federal legislative programs 120-28
Effectiveness of federal wind energy program 120-24
Effectiveness of private sector incentive programs 124-28
Future prospects 149-55
Generally 103-05
Judicial interpretation of PURPA 130-34
Pros and cons from utility companies view 106-07
Reliability and disadvantages ... 148-49
Small power producer 125-28
Supreme Court rule 129
Tax incentives & credits 136-45

EQUAL PROTECTION

See *Takings*

F

FEDERAL COURTS

See *Water Rights*

FISH AND WILDLIFE

See *Energy Resources*

FOREST PRESERVATION

See also *Public Lands, Wilderness Management*
Brazil
Political & economic context 2-6
São Paulo, Cubatão 59-60
Cost of Off-Road Vehicle Use
Cost-benefit analysis 162-63, 177-80

I

INTERNATIONAL AGENCIES

International Atomic Energy Agency (IAEA) 205, 208-18, 220-21, 227-28, 230, 245-47

INTERNATIONAL LAW

Brussels Supplementary Convention 228, 232-33, 235
Liability for Transboundary Nuclear Accidents
Compensable damage 242-47
Cost sharing 224-28
Generally 222-47
Source states' international accountability 237-42
Strict liability standard 237-42
Paris Convention on Third Party Liability in the Field of Nuclear Energy 228-34, 236-38
Vienna Convention on Civil Liability for Nuclear Damage 228-31, 234, 236-38

INTERSTATE COMPACTS

Generally 603-05
Packaging Taxes and Bans 589

J

JUDICIAL REVIEW

See also *Takings, Noise Pollution*
Brazil
Public civil actions 42-44
Clean Water Act 85-86
Use of Off-Road Vehicles on Public Lands 159

JUST COMPENSATION

See *Takings*

L

LAKES AND RIVERS
See *Water Rights*

LAND USE
See also *Aesthetics, City Planning, Public Lands*
Brazil
Political and economic context .. 2-6

M

MINERALS & MINING
See *Public Lands*

MOTOR VEHICLES
Cape Cod National Seashore 170-77
Costs of Off-Road Vehicles 161-63
Use on Public Lands 163

N

NATURAL RESOURCES
See also *Recycling, Wilderness Management*
Brazil
Federal and state administrative regulation 6, 17-22

NOISE POLLUTION
Brazil
Judicial review 38

NUCLEAR ENERGY
See also *International Law*
Danger of Radiation 478-79, 492-96
International Responsibility
Internationally binding safety standards 205-14
Need to internationalize policies . 203-04
Nuclear Safety
Accidents, mitigating effects 218-22
Exchange of information 214-18

NUCLEAR WEAPONS
MX Missile 405
Radiation Effects of Weapons Testing 492-95

P

POLICE POWER
See *Takings*

PUBLIC LANDS
See also *Wilderness Management*
Cape Cod National Seashore
Alternative off-road vehicle management plans 181-86
Cost-benefit analysis 180-86
Management plan for off-road vehicles 171-77
Cooperative Federal-State Management
Generally 409-10, 439-41
Nevada's coordinated resource management and planning program 425-26
Process for consistency 415-21
Reasons for 410-14
State and local strategies 421-39
Federal Regulation 163-70
Judicial Federalism
Federal preemption 448-64, 466-70, 472-73
Generally 440-41
Sweeping federal authority 441-48
National Park Service
Cape Cod National Seashore 170-77
Discretion in promulgating regulations 172
Off-Road Vehicle Use
Bureau of Land Management regulations 167-70
Cost-benefit analysis 160, 171-80
Generally 159
Protection of Aesthetic Scenic Value 177-80
Range Management Controversies
1940's grazing fee controversy ... 390-92
Post-World War I grazing fee controversy 386-88
Ranchers' revolt, 1970's 392-95
Sagebrush Rebellion
Generally 383-85, 395-96, 474
Reasons for 396-408

R

RECYCLING
See also *Conservation, Constitutional Law, Taxation*
Clean Japan Center 617-21
Comparison of U.S. and Japanese Efforts 542-43
Development of Markets for Recycled Materials
New Jersey 566-67, 592-93
Pennsylvania 567, 592-93
Rhode Island 567-68
State procurement statutes 573-76
Tax incentives 576-78
Energy Conservation Impact .. 543-44, 579
Failure of Federal Efforts 612-14
Government Procurement 607-09
Integration of Disposal and Recycling Operations 590-91

Landfill Taxes 571-72, 609-11
Mandatory Source Separation 563-65
Need for Private Sector
Involvement 595-97
Packaging Bans 581-88, 600-02
Packaging Taxes 588-90
Plastics 579-81, 600-02
Quality of Recovered
Materials 597-98, 605
Resource Conservation and Recovery Act
(RCRA)
Congressional purpose 546
Federal procurement of recycled
material 547-50
Resource Recovery Planning
Model 551-52
State Law Incentives for Private
Participation 568-70, 595-97
State Recycling and Procurement
Laws 560-63

RESOURCE MANAGEMENT
See also *Energy Resources, Public Lands, Wilderness Management*
Cape Cod National Seashore
Cost-benefit analysis 180-86
Wind Energy
California 134-36

RIVERS
See also *Administrative Agencies, Water Rights*
Brazil
Political & economic context 2-6
Pollution 31-35

S

SEWAGE TREATMENT
Brazil
São Paulo state administrative
regulation 8
Clean Water Act Control 88

SOLID WASTE
See *Recycling*

STATE-FEDERAL RELATIONS
See *Public Lands*

T

TAKINGS
Judicial Review of "Public Use"
Determination . 678-79, 699-701, 713-14
Just Compensation Requirement ... 685-87
Public Use Requirement
Generally 672
Origins 680-82
Importance limited 675-80
Remedy for arbitrary
government 687-88
Types of Property 702-13

TAXATION
See also *Energy Resources, Recycling*
Energy
Tax incentives & credits 136-45
Energy Legislation's Effects 114-20
Incentives for Recycling 576-78
Packaging Taxes 588-90
State Recycling Incentives 576-78, 598-600

TORTS
Federal Tort Claims Act, Discretionary
Function Exception
Generally 477-80
History 480-83
Judicial interpretation .. 483-91, 496-502
Sovereign Immunity 482

TOXIC POLLUTANTS
Clean Water Act 82

TOXIC SUBSTANCES
Brazil
Federal & state administrative
regulation 14

W

WASTES
See also *Recycling*
Quantities Produced 538-39

WATER POLLUTION
Brazil
Administration and enforcement
of regulatory programs 26-31
Federal and state administrative
regulation 6-10, 12, 14, 15, 17-22
Operation of regulatory
programs 22-38
Paraibuna Metals spill 32-35
Clean Water Act
1972 Amendments 75-80
1977 Amendments 81-82
EPA Administration 85
Erosion of technology-based
standards 87-89
Generally 75-77, 85
Preemption of common law
rules 99
Proposed long-term reform 100
Protecting environmental
reserves 97-99
Technology-based
standards 82-95

EPA Water Quality Standards Program 92-95
Federal Control of Local Water ... 72
Need for Improved Legislation 73
Nonpoint Sources 71, 92, 94
Permit Program 77
Point Source Restriction of Regulatory Coverage 89-92
Proposed Reforms to Clean Water Act 95-101
State Control 95-96
Water Quality Act of 1987 ..... 81-82, 88-89, 91-92
Water Quality Standards of 1972 Statute 78-80

WATER RESOURCES

See also *Water Rights, Water Pollution*
Design of the Clean Water Act.... 73-75
EPA Water Quality Standards Program 92-95
Federal Control of Local Water .72, 95-96

WATER RIGHTS

Appropriative Rights 629-30
Comprehensiveness and Indian Rights 643-44
Comprehensiveness Defined
Hydrological 646-53
User 654-59
Comprehensiveness of State Adjudications
Arizona 637-38
Colorado 638-39
Idaho 639-40
Montana 640-42
Oregon 642-43
Navigation Servitude
Constitutional basis 659-60
McCarran Act implications 661-68
Practical Impact of Comprehensiveness Adjudication 645-46
Reserved Rights 630-31
State Court Jurisdiction 632-35

WILDERNESS MANAGEMENT

Boundary Waters Canoe Area..... 263-65
Land Ethic 254
Protection of Endangered Species in Wilderness Areas 275-77
Southern Pine Beetle Infestation... 263, 265-70, 276-77
Visions of Wilderness 252-55
Wilderness Act
Definition of wilderness 254-55
Management directive 258-62
Multiple and conflicting purposes 255-58, 277-78
Preservation or restoration of wilderness areas 272-73
Tension between human use and wilderness character 277-78

WIND ENERGY

See *Energy Conservation, Energy Resources*

Z

ZONING

See also *City Planning*
Use Quotas 282, 288, 315-16

TABLE OF CASES

A

Adubos Trevo S.A., Vara Cível da Comarca de Cubatão 1, Ministério Público do Estado de São Paulo v. 48
Allen v. United States ... 479-80, 491-502
Ambler Realty Co., Village of Euclid v. 295
American Elec. Power Service Corp., American Paper Inst. Inc. v. 129-34
American Paper Inst. In American Elec. Power Service Corp. 129-34
Arizona v. San Carlos Apache Tribe 633-35, 643-44, 646
Atlantic Richfield Co., Ray v. 450-51

B

Baker v. Carr 700
Begay v. United States 501-02
Berman v. Parker 676, 678
Block, California v. 251
Block, Sierra Club v. 266-67
Board of County Comm'rs, Brubaker v. 461-62
Board of County Comm'rs, Fasano v. 692, 700
Brubaker v. Board of County Comm'rs, ... 461-62
Bruce Church, Inc., Pike v. 585
Burlington County Board of Chosen Freeholders, Kohlbrenner Recycling Enterprises, Inc. v. 570-71, 596
Butz (Butz I), Minnesota Public Interest Research Group v. 263-64
Butz (Butz II), Minnesota Public Interest Research Group v. 263-65, 270

C

California Coastal Comm'n v. Granite Rock Co. 441, 463-73
California, Hurtado v. 683-84
California v. Block 251
Can Mfrs. Inst., Inc. v. Minnesota . 587
Cappaert v. United States 98
Carolene Prods. Co, United States v. 692, 697
Carr, Baker v. 700
City of Berkeley, Fisher v. 287, 297
City of Berkeley, Ross v. 283, 294-305
City of Cambridge, Nectow v. ... 295, 300
City of Milwaukee v. Illinois 99
City of San Jose, Pennell v. 287, 297, 299-300, 304
City of Santa Barbara, Hall v. 299
Clark, Conservation Law Found. v. 160, 172-74, 177
Clark, Sierra Club v. 168-70, 172, 177
Click, State ex rel. Andrus v. 460-61
Clover Leaf Creamery Co., Minnesota v. 584-86
Colorado River Water Conservation District v. United States 633, 643-44, 646
Commonwealth Edison Co. v. Montana 462-63
Confederated Tribes and Bands of the Yakima Indian Nation v. Federal Energy Regulatory Comm'n 352
Conservation Law Found. v. Clark 160, 172-74, 177
Costle, Mississippi Comm'n on Natural Resources v. 93-95
Costle, Natural Resources Defense Council v. 89-90

D

Dalehite v. United States 483-86, 497
Davidowitz, Hines v. 453-54
De Benedictis, Keystone Bituminous Coal Ass'n v. ..301, 303-04
Destilaria Santa Izabel Ltda., Vara Cível da Comarca de Novo Horizonte, Ministério Público do Estado de São Paulo v. 46-47
District Court, Water Division No. 5, United States v. 638-39, 658
District Court for Eagle County, United States v. 643, 646, 652, 655, 658, 661-62, 666
Dugan v. Rank 643, 654-55

E

Empresa Transportadora Marítima Estrela, Vara Cível da Comarca de Santos, Ministério Públic do Estado de São Paulo v. 46

Escondido Mutual Water Company v. La Jolla Band of Mission Indians 352

F

Fasano v. Board of County Comm'rs, ... 692, 700
Federal Energy Regulatory Comm'n, Confederated Tribes and Bands of the Yakima Indian Nation v. 352
Federal Energy Regulatory Comm'n, National Wildlife Fed'n v. 19-22, 327-60
Federal Energy Regulatory Comm'n, Sierra Club v. 338-39
Federal Energy Regulatory Comm'n v. Mississippi 129-30
Federal Energy Regulatory Comm'n, Washington State Dep't of Fisheries v. 320-21, 328, 336, 342-51, 353, 357-60
Federal Power Comm'n, First Iowa Hydro-Electric Cooperative v.... 457-58
Federal Power Comm'n, Scenic Hudson Preservation Conference v. 352
Federal Power Comm'n, Udall v... 350-52
Federal Power Comm'n v. Oregon . 458
Firpavi-Construtora E Pavimentadora S.A. e Petrobrás-Petróleo Brasileiro S.A., Vara Cível da Comarca de Santos, Ministério Públic do Estado de São Paulo v. 46
First Iowa Hydro-Electric Cooperative v. Federal Power Comm'n 457-58
Fisher v. City of Berkeley 287, 297

G

Gettysburg Elec. Rwy. Co., United States v. 678-79
Gorsuch, National Widlife Fed'n v. 90-91
Governador e Assembléia Legislativa do Estado do Rio Grande do Sul, Procurador-Geral de República v. 14
Granite Rock Co., California Coastal Comm'n v. 441, 463-73
Gulf Oil Corp., Ventura County v. 458-61

H

Hagan, Pollard's Lessee v. 444-45
Hall v. City of Santa Barbara 299
Hawaii Housing Authority v. Midkiff 299
Hines v. Davidowitz 453-54
Household Finance Corp., Lynch v. 689
Hurtado v. California 683

I

Illinois, City of Milwaukee v. 99
In re General Adjudication of Rights to the Use of Water from the Snake River Basin Water System..... 639, 647-49, 651, 655-56
In re Gila River..... 649-51
Indian Towing v. United States ... 486-87

J

Justiça Pública v. Nobuo Kimura, Comarca de Americana 50-51

K

Keystone Bituminous Coal Ass'n v. De Benedictis..... 301, 303
Kleppe v. New Mexico.... 445-46, 448-49
Kohlbrenner Recycling Enterprises, Inc. v. Burlington County Board of Chosen Freeholders 570-71, 596

L

La Jolla Band of Mission Indians, Escondido Mutual Water Company v. 352
Loretto v. Teleprompter Manhattan CATV Corp. 298
Lynch v. Household Finance Corp. 689
Lyng (Lyng I), Sierra Club v. 266, 268-69, 276-77
Lyng (Lyng II), Sierra Club v. 266, 269-70, 276-77

M

Midkiff, Hawaii Housing Auth. v. . 299
Ministério Públic do Estado de São Paulo v. Adubos Trevo S.A., Vara Cível da Comarca de Cubatão 1 48
Ministério Públic do Estado de São Paulo v. Destilaria Santa Izabel Ltda., Vara Cível da Comarca de Novo Horizonte..... 46-47
Ministério Públic do Estado de São Paulo v. Empresa Transportadora Marítima Estrela, Vara Cível da Comarca de Santos 46

Ministério Públic do Estado de São Paulo v. Firpavi-Construtora E Pavimentadora S.A. e Petrobrás-Petróleo Brasileiro S.A., Vara Cível da Comarca de Santos 46
Ministério Públic do Estado de São Paulo v. Pertrobrás-Petróleo Brasileiro S.A., Vara Civel da Comarca de Cubatao 48-49
Minnesota, Can Mfrs. Inst., Inc. v. 587
Minnesota Public Interest Research Group v. Butz (Butz I) 263-64
Minnesota Public Interest Research Group v. Butz (Butz II).... 263-65, 270
Minnesota v. Clover Leaf Creamery Co. 584-86
Mississippi Comm'n on Natural Resources v. Costlé 93-94
Mississippi, Federal Energy Regulatory Comm'n v. 129-30
Montana, Commonwealth Edison Co. v. 462-63
Motor Vehicle Mfrs. Ass'n v. State Farm Mutual Automobile Ins. Co. 340

N

National Wildlife Fed'n v. Federal Energy Regulatory Comm'n ... 327-42, 346-51, 356-360
National Widlife Fed'n v. Gorsuch 90-91
Natural Resources Defense Council v. Costle 89-90
Nectow v. City of Cambridge 300
New Mexico, Kleppe v. ... 445-46, 448-49
Nobuo Kimura, Comarca de Americana, Justiça Pública v. ... 50-51

O

Oregon, Federal Power Comm'n v. 458

P

Pacific Gas & Elec. Co. v. State Energy Resources Conservation & Development Comm'n 451
Pennell v. City of San Jose 287, 297, 299-300, 304
Petrobrás-Petróleo Brasileiro S.A., Vara Cível da Comarca de Cubatão, Ministério Públic do Estado de São Paulo v. 48-49
Pike v. Bruce Church, Inc. 585
Pollard's Lessee v. Hagan 444-45
Procurador-Geral de República v. Governador e Assembléia Legislative do Estado do Rio Grande do Sul 14

R

Rank, Dugan v. 643, 654-55
Ray v. Atlantic Richfield Co. 450-51
Rayonier v. United States 487-88
Ross v. City of Berkeley 283, 294, 296-305
Rue-Ell Enterprises, Inc. v. City of Berkeley 287, 294

S

S.A. White Martins v. Siderúrgica Barra Mansa S.A. 39
San Carlos Apache Tribe, Arizona v. 633-35, 643-44, 646
Scenic Hudson Preservation Conference v. Federal Power Comm'n 352
Siderúrgica Barra Mansa S.A., S.A. White Martins v. 39
Sierra Club v. Block 266-67
Sierra Club v. Clark 168-70, 172, 177
Sierra Club v. Federal Energy Regulatory Comm'n 338-39
Sierra Club v. Lyng (Lyng I) 266, 268-70, 276-77
Sierra Club v. Lyng (Lyng II)..... 266, 269-70, 276-77
Skykomish River Hydro... 343-51, 354-57
Skykomish River Hydro (Skykomish River II) 343, 347
State Energy Resources Conservation & Development Comm'n, Pacific Gas & Elec. Co. v. 451
State ex rel. Andrus v. Click 460-61
State Farm Mutual Automobile Ins. Co., Motor Vehicle Mfrs. Ass'n v. 340

T

Teleprompter Manhattan CATV Corp., Loretto v. 298

U

Udall v. Federal Power Comm'n .. 350-52
United States, Allen v. ... 479-80, 491-502
United States, Begay v. 501-02
United States, Cappaert v. 98

United States, Colorado River Water Conservation District v. . . 633, 643-44, 646
United States, Dalehite v. 483-86, 497
United States, Indian Towing v. . . . 486-87
United States, Rayonier v. 487-88
United States, Utah Power & Light Co. v. 446-47
United States v. Carolene Prods. Co. 692, 697
United States v. District Court for Eagle County 643, 646, 652, 655, 658, 661-62, 666
United States v. District Court, Water Division No. 5 . . . . . 638-39, 658
United States v. Gettysburg Elec. Rwy. Co. 678-79
United States v. Varig Airlines . . 488-501, 498
Utah Power & Light Co. v. United States 446-47

V

Varig Airlines, United States v. . 488-501, 498
Ventura County v. Gulf Oil Corp. . 458-61
Village of Euclid v. Ambler Realty Co. 295

W

Washington State Dep't of Fisheries v. Federal Energy Regulatory Comm'n 320-21, 328, 336, 342-51, 353, 357-60

TABLE OF STATUTES

ARIZONA

Ariz. Rev. Stat. Ann. §§ 45-251 to 45-260 ..... 637-38, 649-50

BERKELEY

Berkeley, Cal., Mun. Code § 7.44.010-.140 287
Berkeley, Cal., Mun. Code § 13.82.010-.200 ..... 283, 291
Berkeley, Cal., Mun. Code § 13.86.010-.160 (West Berkeley) 292
Berkeley, Cal., Ordinance 2018-N.S. 315-16
Berkeley, Cal., Ordinance 5603-N.S. (Measure V) 288
Berkeley, Cal., Ordinance 5640-N.S. (Telegraph Avenue) 285, 290
Berkeley, Cal., Ordinance 5708-N.S. (Telegraph Avenue) 282, 294
Berkeley, Cal., Ordinance 5804-N.S. (Oct. 21, 1986) 282
Elmwood Commercial Rent Stabilization and Eviction Protection Ordinance
Berkeley, Cal., Mun. Code § 1380.010-.160 ..... 282, 285-87

CALIFORNIA

Cal. Gov't Code §§ 65, 450-65, 553 316
Costa-Keene-Seymour Commercial Property Investment Act of 1987
Cal. Civ. Code § 1954.25-.31 .. 283, 305
Cal. Civ. Code § 1954.29(a) 308
Cal. Civ. Code § 1954.30 ..... 286, 309

COLORADO

Colo. Rev. Stat. §§ 37-91-101 to 37-92-602 638-39

FLORIDA

Act Approved June 24, 1988, ch. 88-130, § 48 575
1988 Fla. Sess. Law Serv. 390 581-82

HAWAII

Haw. Rev. Stat. §§ 516-522 677

IDAHO

Idaho Code §§ 42-1401 to 42-1423 ..... 639-40, 647, 654, 655-56, 657
Dredge and Placer Mining Protection Act
Idaho Code §§ 47-1312 to 47-1316 460

INTERNATIONAL TREATIES AND AGREEMENTS

Statute of the International Court of Justice
Art. 38, I(c) 239-41
Statute of the International Atomic Energy Agency
Art. III.A.6 208
Art. III.A.1 214

MONTANA

Mont. Code Ann. § 85-2-211 ..... 640-42, 654, 657
Montana Environmental Policy Act
Mont. Code Ann. §§ 75-1-101 to 75-1-324 433-34
Montana Strip and Underground Mine Siting Act
Mont. Code Ann. §§ 82-4-101 to 82-4-142 433

NEW JERSEY

N.J. Stat. Ann. § 13:1E-96 572-73
N.J. Stat. Ann. § 13:1E-99.12 566-67
N.J. Stat. Ann. § 13:1E-99.13 568

OREGON

Or. Rev. Stat. § 637.670-.695 .... 642-43, 657

PENNSYLVANIA

Act Approved July 28, 1988, Pa. Legis. Serv. 1988-101 ..... 567, 569, 573

RHODE ISLAND

R.I. Gen. Laws § 23-18 ..... 569, 570
R.I. Gen. Laws § 23-19 567-69

UNITED STATES

Administrative Procedure Act
5 U.S.C. § 706(2)(A) 269
Atomic Energy Act of 1946
42 U.S.C. §§ 2011-2296 491-92
Clean Water Act
33 U.S.C. §§ 1254-1376 69-71
33 U.S.C. §§ 1311, 1314, 1317 .. 81-82
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
42 U.S.C. §§ 9601-9657 551
Crude Oil Windfall Profit Tax Act
Pub. L. No. 96-223, 94 Stat. 229 (1980) 116-18

Department of Energy Organization Act
42 U.S.C. § 7112 553
Electric Consumers Protection Act
16 U.S.C. § 797(e) 357-59
Endangered Species Act
7 U.S.C. § 136, 16 U.S.C. §§ 1531-1543 275-77
Energy Reorganization Act
Pub. L. No. 93-438, 88 Stat. 1233 (1974) 113
Energy Tax Act of 1978
Pub. L. No. 95-618, 92 Stat. 3174 ..... 104, 106, 114, 116, 124
Federal Civil Rights Act of 1871
42 U.S.C. § 1983 297
Federal Land Policy and Management Act of 1976 (FLPMA)
43 U.S.C. §§ 1701-1784 ..... 166, 377, 392-94, 416-18
Federal Non-Nuclear Energy Research and Development Act
42 U.S.C. §§ 5901-5920, Pub. L. No. 93-577, 88 Stat. 1233 (1974) 113
Federal Power Act
16 U.S.C. §§ 791a-825r ... 320, 326-28, 332-38, 340-43, 346-47, 352-53, 355, 357-59, 457
Federal Tort Claims Act (FTCA)
28 U.S.C. §§ 1346, 2671-2680 .. 477-78, 480-91, 496-502
Federal Water Pollution Control Act Amendments of 1972
33 U.S.C. §§ 1288, 1311, 1312-1314, 1316-1317, 1362 75-80
Fish and Wildlife Coordination Act
16 U.S.C. § 662(a) 322, 354
Marine Mammal Protection Act of 1972
16 U.S.C. § 1379(a) 450
Motor Vehicle Air Pollution Control Act
42 U.S.C. §§ 6905, 6945 590
McCarran Amendment
43 U.S.C. § 666 627-69
National Energy Conservation Policy Act (NECPA)
42 U.S.C. § 6344(a) ... 104, 553-54, 557
National Environmental Policy Act of 1969 (NEPA)
42 U.S.C. § 4321-4347 ..... 178-80, 333
Natural Energy Act of 1978 (NEA)
Pub. L. No. 95-617 to 95-621 ... 104
Nez Perce Treaty
12 Stat. 957 333
Pacific Northwest Electric Power Planning and Conservation Act
16 U.S.C. § 839-839h 333, 358
Powerplant and Industrial Fuel Use Act of 1978
Pub. L. No. 95-602, 92 Stat. 3289 104
Public Rangelands Improvement Act of 1978
43 U.S.C. §§ 1901-1908 .... 393-94, 429
Public Utilities Regulatory Policies Act of 1978
Pub. L. No. 95-617, 92 Stat. 3117 ..... 104, 106, 111, 114-15, 119-20, 124-36, 156
Quiet Communities Act of 1978
42 U.S.C. § 6981 613-14
Recreation and Public Purpose Act
43 U.S.C. § 869 400
Resource Conservation and Recovery Act (RCRA)
42 U.S.C. §§ 6921-6934 546-48
Solar Energy Research, Development, and Demonstration Act
42 U.S.C. §§ 5551-5566, Pub. L. No. 93-473, 88 Stat. 1431 (1974) 113
Surface Mining Control and Reclamation Act (SMCRA)
30 U.S.C. § 1295 433
Taylor Grazing Act (Taylor Act)
43 U.S.C. § 315-315r 388-90, 393
United States Constitution
Art. I § 10, cl. 1 ..... 283, 301
Water Quality Act of 1965
Pub. L. No. 89-324, 79 Stat. 903 73-75
Water Quality Act of 1987
Pub. L. No. 100-4, 101 Stat. 7 .. 81-82
Wilderness Act of 1964
16 U.S.C. §§ 1131-1136 ..... 250-52, 254-65, 268-79